

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 99-0589P**

**Sales and Use Tax**

**Calendar Years 1995, 1996, and Fiscal Year 05/31/97**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is a wholesaler, retailer of electrical supplies with corporate headquarters in Indiana.

Upon audit, it was discovered that the Taxpayer failed to self-assess use tax on clearly taxable items such as janitorial supplies, subscriptions, fixed assets, and other miscellaneous items.

Taxpayer paid less than two percent in use tax for calendar year 1995 and no use tax in 1996 and 1997. In addition, taxpayer made tax-exempt sales for which no exemption certificates were presented in all years of the audit.

1. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer's audit report revealed that it remitted little or no use tax in all years of audit.

Taxpayer requests the department waive its negligence penalty as it had an error rate of only 0.28% for the audit period which shows that the policies and procedures that were in place resulted in excellent tax compliance.

Taxpayer made no attempt to self assess use tax on taxable purchases for two years of the audit and remitted less than two percent in the other. Taxpayer has had two prior audits and was aware of its obligation.

**FINDING**

Taxpayer's protest is denied.